IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4880 OF 2003

The Chairman
Girls High School, Takali ....Petitioner
Versus
Smt. Vandana Mahadeo Patil & Ors. ....Respondents

Mr.A.M.Kumbhakoni & N.V.Bandiwadekar for petitioner
Mr.G.M.Sovagave for Respdt.no.1
Mr.M.H.Solkar,AGP for respondent no.2 & 3

CORAM : P.V.KAKADE, J.

DATE : 7TH APRIL, 2006

P.C.:

1. Heard the learned counsel for the petitioner. Advocate for the respondent no.1 is also heard. Respondent no.2 is represented by AGP. The contesting respondent appears to be respondent no.1. IN view of the facts and circumstances, after hearing the parties and perusing the record the following order is passed -

2. Rule. By consent rule made returnable forthwith.

3. On the oral motion on behalf of the petitioner the

name of respondent no.3 is deleted.

4. In view of the admitted fact that there was delay in filing the appeal by Respondent no.1 before the School Tribunal and there was no application filed by Respondent no.1 for condonation of delay. The said Appeal was not maintainable, in the light of judgment of Division Bench of this Court in Mathuradas Mohta College of Science, Nagpur vs. R.T.Borkar & Ors reported in 1997 (2) Mh.L.J. 168. The impugned order dated 1.4.2002 passed by the School Tribunal, Kolhapur in Appeal No.153/97 is therefore quashed and set aside.

5. Appeal No.153/97 filed by Respondent no.1 is remitted back to the School Tribunal, Kolhapur. The Respondent no.1 shall be at liberty to file appropriate application for condonation of delay. The petitioner shall be entitled to oppose the said application on merits. The Tribunal is directed to decide the said application after hearing all parties, on its merits and in accordance with law.

6. The Respondent no.1 shall file the application for condonation of delay before the School Tribunal, Kolhapur

within 3 weeks from today. The petitioner, if so advised, shall file its say within 2 weeks from the date of filing of the application by Respondent no.1. The School Tribunal is directed to dispose of the said application within 8 weeks from today. In the event of School Tribunal allowing the application for condonation of delay, it shall thereafter proceed to hear the appeal and dispose of the same on merits and in accordance with law as expeditiously as possible and in any event within three months from today. The petitioner will be entitled to file its written statement, if so advised.

7. All contention of all parties are kept open to be agitated before the School Tribunal.

8. In view of the impugned order of the School Tribunal being set aside, the contempt proceedings initiated by Respondent no.1 before the School Tribunal against petitioner and respondent no.3 do not survive and the same stands disposed of accordingly.

9. Rule made absolute in aforesaid terms with no order as to costs.

10. All concerned to act on a copy of this order duly authenticated.